

AMENDED IN ASSEMBLY AUGUST 25, 2003

AMENDED IN ASSEMBLY JULY 21, 2003

AMENDED IN ASSEMBLY JULY 16, 2003

AMENDED IN SENATE JUNE 4, 2003

AMENDED IN SENATE APRIL 22, 2003

SENATE BILL

No. 140

Introduced by Senators Denham and Knight
(Principal coauthor: Assembly Member Nation)

February 6, 2003

An act to *amend Section 51747.3 of*, to amend, add, and repeal Section 48204 of, and to add Section 46601.5 to, the Education Code, relating to school attendance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 140, as amended, Denham. Education: school attendance requirements.

(1) Existing law required any 2 school districts entering into an agreement for interdistrict attendance to give consideration to the child care needs of the pupil and required any district that entered into an agreement for interdistrict attendance to allow the pupil to remain continuously enrolled in the school district of choice, subject to certain requirements. Existing law made these provisions operative until July 1, 2003.

This bill would reenact those provisions, would additionally prohibit a school district from requiring a pupil in kindergarten or any of grades

1 to 6, inclusive, attending the school pursuant to an interdistrict attendance agreement originally executed on or after the effective date of the act to reapply for interdistrict attendance in that school district, unless the pupil ceased to receive child care in the district, and would encourage a school district to allow any pupil to remain continuously enrolled in the school district of choice if the parent or guardian so chooses. This bill would extend the operative date of those provisions until July 1, 2007.

(2) Existing law provides that a pupil is deemed to have complied with the residency requirements for school attendance in a school district, provided the pupil meets one of the specified requirements.

This bill would additionally authorize the school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade if the parent or guardian so chooses, as specified.

This bill would make those provisions authorizing the school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade inoperative on and after July 1, 2007, and would repeal the provisions on January 1, 2008.

(3) *This bill would make other technical and conforming changes.*

(4) This bill would become operative only if AB 97 is enacted and takes effect.

~~(4)~~

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 46601.5 is added to the Education Code,
2 to read:
3 46601.5. (a) The governing boards of any two school
4 districts that have been requested by a pupil's parent or legal
5 guardian to enter into an agreement for interdistrict attendance
6 pursuant to Section 46600 are encouraged to, in considering that
7 request, give consideration to the child care needs of the pupil.
8 (b) The governing board of any school district that has entered
9 into an agreement for the interdistrict attendance of a pupil based
10 on that pupil's child care needs may not require those pupils in

1 kindergarten or any of grades 1 to 6, inclusive, to reapply for an
2 interdistrict transfer originally granted pursuant to an agreement
3 executed on or after the effective date of this section unless the
4 pupil ceases to receive child care in the district and is encouraged
5 to allow any pupil to remain continuously enrolled in the school
6 district of choice if the parent or guardian so chooses, subject to
7 paragraphs (1) to (6), inclusive, of subdivision ~~(f)~~ (b) of Section
8 48204.

9 (c) The governing board of any high school district whose
10 feeder elementary school has entered into an agreement with
11 another school district for the interdistrict attendance of a pupil
12 based on that pupil's child care needs is encouraged to allow that
13 pupil to continue to attend school through the 12th grade in the
14 same district if the parent or guardian so chooses, subject to
15 paragraphs (1) to (6), inclusive, of subdivision ~~(f)~~ (b) of Section
16 48204.

17 (d) This section shall remain in effect only until July 1, 2007,
18 and as of that date is repealed, unless a later enacted statute, which
19 is enacted before July 1, 2007, deletes or extends that date.

20 SEC. 2. Section 48204 is added to the Education Code, to
21 read:

22 48204. (a) Notwithstanding Section 48200, a pupil is
23 deemed to have complied with the residency requirements for
24 school attendance in a school district, if he or she is any of the
25 following:

26 (1) A pupil placed within the boundaries of that school district
27 in a regularly established licensed children's institution, or a
28 licensed foster home, or a family home pursuant to a commitment
29 or placement under Chapter 2 (commencing with Section 200) of
30 Part 1 of Division 2 of the Welfare and Institutions Code.

31 An agency placing a pupil in a home or institution described in
32 this subdivision shall provide evidence to the school that the
33 placement or commitment is pursuant to law.

34 (2) A pupil for whom interdistrict attendance has been
35 approved pursuant to Chapter 5 (commencing with Section 46600)
36 of Part 26.

37 (3) A pupil whose residence is located within the boundaries of
38 that school district and whose parent or legal guardian is relieved
39 of responsibility, control, and authority through emancipation.

(4) A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the caregiver's home, unless the school district determines from actual facts that the pupil is not living in the caregiver's home.

(5) A pupil residing in a state hospital located within the boundaries of that school district.

(b) A school district may deem ~~an elementary school~~ a pupil as having complied with the residency requirements for school attendance in the school district if one or both the parents or legal guardians of the pupil is employed within the boundaries of that school district.

(1) This subdivision does not require the school district within which the parents or guardians of a pupil are employed to admit the pupil to its schools. Districts may not, however, refuse to admit pupils under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

(2) The school district in which the residency of either the parents or guardians of the pupil is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the district determines that the transfer would negatively impact the court-ordered or voluntary desegregation plan of the district.

(3) The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

(4) The governing board of a school district that prohibits the transfer of a pupil pursuant to paragraph (1), (2), or (3) is encouraged to identify, and communicate in writing to the parents or guardians of the pupil, the specific reasons for that determination and is encouraged to ensure that the determination, and the specific reasons therefor, are accurately recorded in the

1 minutes of the board meeting in which the determination was
2 made.

3 (5) The average daily attendance for pupils admitted pursuant
4 to this subdivision is calculated pursuant to Section 46607.

5 (6) Unless approved by the sending district, this subdivision
6 does not authorize a net transfer of pupils out of any given district,
7 calculated as the difference between the number of pupils exiting
8 the district and the number of pupils entering the district, in any
9 fiscal year in excess of the following amounts:

10 (A) For any district with an average daily attendance for that
11 fiscal year of less than 501, 5 percent of the average daily
12 attendance of the district.

13 (B) For any district with an average daily attendance for that
14 fiscal year of 501 or more, but less than 2,501, 3 percent of the
15 average daily attendance of the district or 25 pupils, whichever
16 amount is greater.

17 (C) For any district with an average daily attendance of 2,501
18 or more, 1 percent of the average daily attendance of the district
19 or 75 pupils, whichever amount is greater.

20 (7) Once a pupil is deemed to have complied with the residency
21 requirements for school attendance pursuant to this subdivision
22 and is enrolled in a school in a school district whose boundaries
23 include the location where one or both parents of a pupil is
24 employed, or where the legal guardian of the pupil is employed,
25 the pupil does not have to reapply in the next school year to attend
26 a school within that school district and the district governing board
27 shall allow the pupil to attend school through the 12th grade in that
28 district if the parent or guardian so chooses and if one or both of
29 the pupil's parents or guardians continues to be employed by an
30 employer situated within the attendance boundaries of the school
31 district, subject to paragraphs (1) to (6), inclusive.

32 (c) This section is inoperative on and after July 1, 2007, and as
33 of January 1, 2008, is repealed, unless a later enacted statute, that
34 becomes operative on or before January 1, 2008, deletes or extends
35 the dates on which it becomes inoperative and is repealed.

36 SEC. 3. Section 48204 of the Education Code, as amended by
37 Section 19.5 of Chapter 299 of the Statutes of 1997, is amended
38 to read:

1 48204. Notwithstanding Section 48200, a pupil is deemed to
2 have complied with the residency requirements for school
3 attendance in a school district, if he or she is:

4 (a) A pupil placed within the boundaries of that school district
5 in a regularly established licensed children's institution, or a
6 licensed foster home, or a family home pursuant to a commitment
7 or placement under Chapter 2 (commencing with Section 200) of
8 Part 1 of Division 2 of the Welfare and Institutions Code.

9 An agency placing a pupil in the home or institution shall
10 provide evidence to the school that the placement or commitment
11 is pursuant to law.

12 (b) A pupil for whom interdistrict attendance has been
13 approved pursuant to Chapter 5 (commencing with Section 46600)
14 of Part 26.

15 (c) A pupil whose residence is located within the boundaries of
16 that school district and whose parent or legal guardian is relieved
17 of responsibility, control, and authority through emancipation.

18 (d) A pupil who lives in the home of a caregiving adult that is
19 located within the boundaries of that school district. Execution of
20 an affidavit under penalty of perjury pursuant to Part 1.5
21 (commencing with Section 6550) of Division 11 of the Family
22 Code by the caregiving adult is a sufficient basis for a
23 determination that the pupil lives in the caregiver's home, unless
24 the school district determines from actual facts that the pupil is not
25 living in the caregiver's home.

26 (e) A pupil residing in a state hospital located within the
27 boundaries of that school district.

28 (f) This section is operative on and after July 1, 2007.

29 SEC. 4. *Section 51747.3 of the Education Code is amended to*
30 *read:*

31 51747.3. (a) Notwithstanding any other provision of law, a
32 local ~~education~~ educational agency, including, but not limited to,
33 a charter school, may not claim state funding for the independent
34 study of a pupil, whether characterized as home study or
35 otherwise, if the agency has provided any funds or other thing of
36 value to the pupil or his or her parent or guardian that the agency
37 does not provide to pupils who attend regular classes or to their
38 parents or guardians. A charter school may not claim state funding
39 for the independent study of a pupil, whether characterized as
40 home study or otherwise, if the charter school has provided any

1 funds or other thing of value to the pupil or his or her parent or
2 guardian that a school district could not legally provide to a
3 similarly situated pupil of the school district, or to his or her parent
4 or guardian.

5 (b) Notwithstanding paragraph (1) of subdivision (d) of
6 Section 47605 or any other provision of law, community school
7 and independent study average daily attendance shall be claimed
8 by school districts, county superintendents of schools, and charter
9 schools only for pupils who are residents of the county in which
10 the apportionment claim is reported, or who are residents of a
11 county immediately adjacent to the county in which the
12 apportionment claim is reported.

13 (c) The Superintendent of Public Instruction shall not
14 apportion funds for reported average daily attendance, through
15 full-time independent study, of pupils who are enrolled in school
16 pursuant to subdivision ~~(f)~~ (b) of Section 48204.

17 (d) In conformity with Provisions 25 and 28 of Section 2.00 of
18 the Budget Act of 1992, this section is applicable to average daily
19 attendance reported for apportionment purposes beginning July 1,
20 1992. The provisions of this section are not subject to waiver by
21 the State Board of Education, by the State Superintendent of
22 Public Instruction, or under any provision of Part 26.8
23 (commencing with Section 47600).

24 *SEC. 5.* This act is an urgency statute necessary for the
25 immediate preservation of the public peace, health, or safety
26 within the meaning of Article IV of the Constitution and shall go
27 into immediate effect. The facts constituting the necessity are:

28 In order to maintain the status of existing law governing school
29 district attendance, it is necessary that this act take effect
30 immediately.

31 ~~SEC. 5.—~~

32 *SEC. 6.* This act shall become operative only if Assembly Bill
33 97 is enacted and takes effect.